

1 KAMALA D. HARRIS  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
3 SUSANA A. GONZALES  
Deputy Attorney General  
4 State Bar No. 253027  
1515 Clay Street, 20th Floor  
5 P.O. Box 70550  
Oakland, CA 94612-0550  
6 Telephone: (510) 622-2221  
Facsimile: (510) 622-2270  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2012-59**

12 **APRIL DIANE MOSHAUER**  
13 **51 Terraced Hills Way**  
**San Ramon, CA 94583**  
14 **Registered Nurse License No. 783879**

**A C C U S A T I O N**

15 Respondent.

16  
17 Complainant alleges:

18 PARTIES

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs.

22 2. On or about September 16, 2010, the Board of Registered Nursing issued Registered  
23 Nurse License Number 783879 to April Diane Moshauer (Respondent). The Registered Nurse  
24 License will expire on February 29, 2012, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board of Registered Nursing (Board),  
27 Department of Consumer Affairs, under the authority of the following laws. All section  
28 references are to the Business and Professions Code unless otherwise indicated.

1       4.     Section 2750 of the Business and Professions Code (Code) provides, in pertinent part,  
2     that the Board may discipline any licensee, including a licensee holding a temporary or an  
3     inactive license, for any reason provided in Article 3 (commencing with section 2750) of the  
4     Nursing Practice Act.

5       5.     Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
6     shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
7     licensee or to render a decision imposing discipline on the license. Under section 2811,  
8     subdivision (b), of the Code, the Board may renew an expired license at any time within eight  
9     years after the expiration.

10      6.     Section 118, subdivision (b), of the Code provides, in pertinent part, that the  
11     expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary  
12     action during the period within which the license may be renewed, restored, reissued or  
13     reinstated.

#### 14                                   STATUTORY PROVISIONS

15      7.     Section 2761 of the Code states:

16             "The board may take disciplinary action against a certified or licensed nurse or deny an  
17     application for a certificate or license for any of the following:

18             "(a) Unprofessional conduct, which includes, but is not limited to, the following:

19             ...

20             "(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action  
21     against a health care professional license or certificate by another state or territory of the United  
22     States, by any other government agency, or by another California health care professional  
23     licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that  
24     action."

#### 25                                   COST RECOVERY

26      8.     Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
27     administrative law judge to direct a licensee found to have committed a violation or violations of  
28

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
2 enforcement of the case.

3 CAUSE FOR DISCIPLINE

4 (Unprofessional Conduct – Out of State Discipline)  
5 (Bus. & Prof. Code §2761, subd. (a)(4))

6 9. Respondent has subjected her registered nurse license to disciplinary action under  
7 Code section 2761, subdivision (a)(4), in that on or about January 4, 2011, in a disciplinary action  
8 before the Board of Nursing for the State of Texas ("Texas Board"), the Texas Board entered an  
9 Order sanctioning Respondent with a reprimand with stipulations. The Order required  
10 Respondent to: (1) not work outside the state of Texas pursuant to a nurse licensure compact  
11 privilege without written permission from the Texas Board and the Board of Nursing in the state  
12 where Respondent wishes to work; (2) successfully complete a Texas board-approved course in  
13 nursing jurisprudence and ethics for a minimum of six contact hours within one year of the  
14 Order; (3) successfully complete a Texas Board-approved course in physical assessment for a  
15 minimum of six contact hours, including physical assessments on live patients in a clinical setting  
16 for a minimum of twenty-four hours, within one year of the Order; (4) successfully complete a  
17 Texas Board-approved course in nursing documentation for a minimum of six contact hours  
18 within one year of the Order; and (5) successfully complete the online course "Sharpening  
19 Critical thinking Skills," a 3.6 contact hour online program provided by the National Council of  
20 State Boards of Nursing Learning Extension, within one year of the Order.

21 10. The Order further required that, should Respondent practice as a nurse in Texas  
22 during the stipulation period, she shall provide direct patient care and practice in a hospital,  
23 nursing home, or other clinical setting for a minimum of sixty-four hours per month for two years  
24 of employment, under the following conditions: (1) present a copy the Order to each present  
25 employer and notify all future employers of the Order and the stipulations on her license prior to  
26 accepting an offer of employment; (2) submit a notification of employment form for each present  
27 and future employer to the Texas Board; (3) work under the direct supervision of a registered  
28 nurse for the first year of employment; (4) work under the supervision of a registered nurse who

1 is on the same premises for the remainder of the stipulation period; (5) limit work to only  
2 regularly assigned, identified, and predetermined units; (6) not be employed by a nurse registry,  
3 temporary nurse employment agency, hospice, or home health agency; (7) not be self-employed  
4 or contract for services; and (8) cause her employer to submit quarterly reports to the Texas  
5 Board regarding Respondent's capability to practice nursing. Respondent signed the Order on  
6 January 4, 2011.

7 11. The underlying conduct supporting the Texas Board's disciplinary action is that on or  
8 about July 17, 2009, while employed as an Intensive Care Unit (ICU) Nurse with CHRISTUS St.  
9 John Hospital in Nassau Bay, Texas, Respondent failed to assess or document, or both, the vital  
10 signs of a patient upon his arrival in the ICU, as required by hospital policy. When the patient  
11 was transferred to the ICU bed and repositioned, Respondent failed to detect that the patient was  
12 not breathing, as indicated by the patient's telemetry. Telemetry, a technology that allows remote  
13 measurement and reporting of information, is used on medical patients who are at risk of  
14 abnormal heart activity. Instead of initiating emergency resuscitation, Respondent left the room  
15 to review the patient's medical chart. Respondent returned to the patient's room minutes later  
16 and found that the patient had no pulse or respirations. A "code blue" was initiated and the  
17 patient was intubated. A "code blue" is a medical emergency designation in which a team of  
18 medical personnel work to revive an individual in cardiac arrest. After resuscitation, it was  
19 determined that the patient had suffered an anoxic brain injury. The patient expired nine days  
20 later after a decision to withdraw life support. The Texas Board concluded that Respondent's  
21 conduct resulted in an incomplete medical record and may have contributed to the patient's  
22 respiratory arrest and subsequent demise.

23 12. Furthermore, on or about July 17, 2009, Respondent inaccurately documented that the  
24 aforementioned patient returned to the ICU and that the "code blue" was called at the same time.  
25 Respondent's inaccurate documentation was due to the fact that she completed her documentation  
26 later in the day and guessed as to the time that the "code blue" was actually started. Additionally,  
27 Respondent failed to document in the medical record the intervention that was implemented  
28 during the code blue, the time of implementations, and the patient's reaction to the interventions.

1 The Texas Board found that Respondent's conduct resulted in an incomplete and incorrect  
2 medical record, and likely injured the patient's subsequent care decisions based on inaccurate  
3 information.

4 PRAYER

5 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
6 Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

- 7 1. Revoking or suspending Registered Nurse License Number 783879, issued to April  
8 Diane Moshauer;
- 9 2. Ordering April Diane Moshauer to pay the Board of Registered Nursing the  
10 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
11 Professions Code section 125.3; and
- 12 3. Taking such other and further action as deemed necessary and proper.
- 13  
14

15 DATED: July 25, 2011

16 for Stacie Ber  
17 LOUISE R. BAILEY, M.ED., RN  
18 Executive Officer  
19 Board of Registered Nursing  
20 Department of Consumer Affairs  
21 State of California  
22 Complainant

20 SF2011900272  
21 90199488.doc

22  
23  
24  
25  
26  
27  
28